

Education Bill

SECOND MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON REPORT

The amendments are tabled in accordance with the Order of 17th October, as follows—

Clauses 18 to 21	Schedule 13
Schedule 7	Clauses 54 to 61
Clauses 22 to 24	Schedule 14
Schedule 8	Clauses 62 and 63
Clause 25	Schedule 15
Schedule 9	Clauses 64 and 65
Clauses 26 to 34	Schedule 16
Schedule 10	Clause 66
Clauses 35 and 36	Schedule 17
Schedule 11	Clause 67
Clauses 37 to 48	Schedule 18
Schedule 12	Clauses 68 to 79
Clauses 49 to 53	

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 18

BARONESS HUGHES OF STRETTFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

55 Leave out Clause 18

After Clause 22

LORD HILL OF OAREFORD

56 Insert the following new Clause—

“Enforcement powers

- (1) Part 7 of ASCLA 2009 (the Office of Qualifications and Examinations Regulation) is amended as set out in subsections (2) to (6).

**Amendment
No.**

After Clause 22—*continued*

- (2) In section 151 (power to give directions), for subsection (1) substitute—
- “(1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed or is likely to fail to comply with a condition to which the recognition is subject.”

- (3) After section 151 insert—

“151A Power to impose monetary penalties

- (1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed to comply with a condition to which the recognition is subject.
- (2) Ofqual may impose a monetary penalty on the recognised body.
- (3) A “monetary penalty” is a requirement to pay to Ofqual a penalty of an amount determined by Ofqual in accordance with section 151B.
- (4) Before imposing a monetary penalty on a recognised body, Ofqual must give notice to the body of its intention to do so.
- (5) The notice must—
 - (a) set out Ofqual’s reasons for proposing to impose the penalty, and
 - (b) specify the period during which, and the way in which, the recognised body may make representations about the proposal.
- (6) The period specified under subsection (5)(b) must not be less than 28 days beginning with the date on which the notice is received.
- (7) Ofqual must have regard to any representations made by the recognised body during the period specified in the notice in deciding whether to impose a monetary penalty on the body.
- (8) If Ofqual decides to impose a monetary penalty on the body, it must give the body a notice containing information as to—
 - (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment is required to be made (which must not be less than 28 days),
 - (d) rights of appeal,
 - (e) the period within which an appeal may be made, and
 - (f) the consequences of non-payment.

151B Monetary penalties: amount

- 41 (1) The amount of a monetary penalty imposed on a recognised body
under section 151A must not exceed 10% of the body’s turnover.
- 42 (2) The turnover of a body for the purposes of subsection (1) is to be
- 43 determined in accordance with an order made by the Secretary of
State.

Amendment
No.

After Clause 22—*continued*

- (3) Subject to subsection (1), the amount may be whatever Ofqual decides is appropriate in all the circumstances of the case.

151C Monetary penalties: appeals

- (1) A recognised body may appeal to the First-tier Tribunal against—
- (a) a decision to impose a monetary penalty on the body under section 151A;
 - (b) a decision as to the amount of the penalty.
- (2) An appeal under this section may be made on the grounds—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) The requirement to pay the penalty is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
- (a) withdraw the requirement to pay the penalty;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
 - (e) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to Ofqual.

151D Monetary penalties: interest and recovery

- (1) This section applies if all or part of a monetary penalty imposed on a recognised body is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
- (a) the last date on which the recognised body may make an appeal under section 151C in respect of the penalty, if no such appeal is made;
 - (b) if an appeal under section 151C in respect of the penalty is made—
 - (i) the date on which the appeal is determined, or
 - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the penalty for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).

**Amendment
No.**

After Clause 22—*continued*

- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the penalty.
- (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.”
- (4) In section 152 (power to withdraw recognition), for subsection (2) substitute—
 - “(2) Ofqual may withdraw recognition from the recognised body in respect of the award or authentication of—
 - (a) a specified qualification or description of qualification in respect of which the body is recognised, or
 - (b) every qualification or description of qualification in respect of which the body is recognised.”
- (5) After section 152 insert—

“152A Costs recovery

- (1) Ofqual may, by notice, require a recognised body on which a sanction has been imposed to pay the costs incurred by Ofqual in relation to imposing the sanction, up to the time it is imposed.
- (2) The references in subsection (1) to imposing a sanction are to—
 - (a) giving a direction under section 151;
 - (b) imposing a monetary penalty under section 151A;
 - (c) withdrawing recognition under section 152.
- (3) “Costs” includes in particular—
 - (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).
- (4) A notice given to a recognised body under subsection (1) must contain information as to—
 - (a) the amount required to be paid,
 - (b) how payment may be made,
 - (c) the period within which payment is required to be made (which must not be less than 28 days),
 - (d) rights of appeal,
 - (e) the period within which an appeal may be made, and
 - (f) the consequences of non-payment.
- (5) The body may require Ofqual to provide a detailed breakdown of the amount specified in the notice.

152B Costs recovery: appeals

- (1) A recognised body may appeal to the First-tier Tribunal against—
 - (a) a decision under section 152A(1) to require the body to pay costs;

**Amendment
No.****After Clause 22—continued**

- (b) a decision as to the amount of those costs.
- (2) An appeal under this section may be made on the grounds—
 - (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) The requirement to pay the costs is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
 - (a) withdraw the requirement to pay the costs;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
 - (e) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to Ofqual.

152C Costs: interest and recovery

- (1) This section applies if all or part of an amount of costs that a recognised body is required to pay under section 152A(1) is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
 - (a) the last date on which the recognised body may make an appeal under section 152B in respect of the costs, if no such appeal is made;
 - (b) if an appeal under section 152B in respect of the costs is made—
 - (i) the date on which the appeal is determined, or
 - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the costs for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the costs.
- (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.”
- (6) In section 153 (qualifications regulatory framework), in subsection (8)(e), for “152” substitute “152C”.
- (7) In section 262(6) of ASCLA 2009 (orders and regulations subject to affirmative resolution procedure), after paragraph (e) insert—

Amendment
No.

After Clause 22—*continued*

“(ea) an order under section 151B(2);”.

BARONESS SHARP OF GUILDFORD
BARONESS BRINTON

[Amendments 56A and 56B are amendments to amendment 56]

56A★ Line 41, leave out “not exceed 10 per cent of the body’s” and insert “only relate to a body’s relevant”

BARONESS SHARP OF GUILDFORD
BARONESS BRINTON

56B★ Line 42, leave out from beginning to “determined” in line 43 and insert ““Relevant turnover”, for the purposes of subsection (1), means turnover derived from the provision of regulated qualifications and is to be further”

LORD HILL OF OAREFORD

57 Insert the following new Clause—

“Enforcement powers of Welsh Ministers

- (1) Chapter 2 of Part 5 of EA 1997 (functions of Welsh Ministers: qualifications and the school curriculum) is amended as set out in subsections (2) to (6).
- (2) In section 32A (power to give directions), for subsections (1) and (2) substitute—
 - “(1) Subsection (1A) applies if it appears to the Welsh Ministers that a recognised person has failed or is likely to fail to comply with a condition subject to which the recognition has effect.
 - (1A) The Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the recognition has effect.
 - (2) Subsection (2A) applies if it appears to the Welsh Ministers that a recognised person who awards or authenticates a qualification accredited by them has failed or is likely to fail to comply with a condition subject to which the accreditation has effect.
 - (2A) The Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.”
- (3) In section 32A(5), for “32B and” substitute “32AA to”.
- (4) After section 32A insert—

“32AA Power of Welsh Ministers to impose monetary penalties

- (1) Subsection (2) applies if it appears to the Welsh Ministers that a recognised person has failed to comply with a condition subject to which the recognition has effect.

**Amendment
No.****After Clause 22—continued**

- (2) The Welsh Ministers may impose a monetary penalty on the recognised person.
- (3) Subsection (4) applies if it appears to the Welsh Ministers that a recognised person who awards or authenticates a qualification accredited by them has failed to comply with a condition subject to which the accreditation has effect.
- (4) The Welsh Ministers may impose a monetary penalty on the recognised person.
- (5) A “monetary penalty” is a requirement to pay to the Welsh Ministers a penalty of an amount determined by them in accordance with section 32AB.
- (6) Before imposing a monetary penalty on a recognised person, the Welsh Ministers must give notice to the person of their intention to do so.
- (7) The notice must—
 - (a) set out their reasons for proposing to impose the penalty, and
 - (b) specify the period during which, and the way in which, the recognised person may make representations about the proposal.
- (8) The period specified under subsection (7)(b) must not be less than 28 days beginning with the date on which the notice is received.
- (9) The Welsh Ministers must have regard to any representations made by the recognised person during the period specified in the notice in deciding whether to impose a monetary penalty on the person.
- (10) If the Welsh Ministers decide to impose a monetary penalty on the person, they must give the person a notice containing information as to—
 - (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment is required to be made (which must not be less than 28 days),
 - (d) rights of appeal,
 - (e) the period within which an appeal may be made, and
 - (f) the consequences of non-payment.

32AB Monetary penalties: amount

- (1) The amount of a monetary penalty imposed on a recognised person under section 32AA must not exceed 10% of the person’s turnover.
- (2) The turnover of a person for the purposes of subsection (1) is to be determined in accordance with an order made by the Welsh Ministers.
- (3) Subject to subsection (1), the amount may be whatever the Welsh Ministers decide is appropriate in all the circumstances of the case.

Amendment
No.

After Clause 22—*continued*

32AC Monetary penalties: appeals

- (1) A recognised person may appeal to the First-tier Tribunal against—
 - (a) a decision to impose a monetary penalty on the person under section 32AA;
 - (b) a decision as to the amount of the penalty.
- (2) An appeal under this section may be made on the grounds—
 - (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) The requirement to pay the penalty is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
 - (a) withdraw the requirement to pay the penalty;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) take such steps as the Welsh Ministers could take in relation to the failure to comply giving rise to the decision to impose the requirement;
 - (e) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the Welsh Ministers.

32AD Monetary penalties: interest and recovery

- (1) This section applies if all or part of a monetary penalty imposed on a recognised person is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
 - (a) the last date on which the recognised person may make an appeal under section 32AC in respect of the penalty, if no such appeal is made;
 - (b) if an appeal under section 32AC in respect of the penalty is made—
 - (i) the date on which the appeal is determined, or
 - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the penalty for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the penalty.

**Amendment
No.****After Clause 22—continued**

- (5) The Welsh Ministers may recover from the person, as a civil debt due to them, the unpaid amount of the penalty and any unpaid interest.”
- (5) In section 32B (power to withdraw recognition)—
 - (a) for subsection (2) substitute—
 - “(2) The Welsh Ministers may withdraw recognition from the recognised person in respect of the award or authentication of—
 - (a) a specified qualification or description of qualification in respect of which the person is recognised, or
 - (b) every qualification or description of qualification in respect of which the person is recognised.”;
 - (b) for subsection (4) substitute—
 - “(4) The Welsh Ministers may withdraw recognition from the recognised person in respect of the award or authentication of—
 - (a) the qualification or a specified description of qualification in respect of which the person is recognised, or
 - (b) every qualification or description of qualification in respect of which the person is recognised.”
- (6) After section 32B insert—

“32BA Costs recovery

- (1) The Welsh Ministers may, by notice, require a recognised person on whom a sanction has been imposed to pay the costs incurred by the Welsh Ministers in relation to imposing the sanction, up to the time it is imposed.
- (2) The references in subsection (1) to imposing a sanction are to—
 - (a) giving a direction under section 32A;
 - (b) imposing a monetary penalty under section 32AA;
 - (c) withdrawing recognition under section 32B.
- (3) “Costs” includes in particular—
 - (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).
- (4) A notice given to a recognised person under subsection (1) must contain information as to—
 - (a) the amount required to be paid,
 - (b) how payment may be made,
 - (c) the period within which payment is required to be made (which must not be less than 28 days),
 - (d) rights of appeal,
 - (e) the period within which an appeal may be made, and

Amendment
No.

After Clause 22—*continued*

- (f) the consequences of non-payment.
- (5) The person may require the Welsh Ministers to provide a detailed breakdown of the amount specified in the notice.

32BB Costs recovery: appeals

- (1) A recognised person may appeal to the First-tier Tribunal against—
 - (a) a decision under section 32BA(1) to require the person to pay costs;
 - (b) a decision as to the amount of those costs.
- (2) An appeal under this section may be made on the grounds—
 - (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) The requirement to pay the costs is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
 - (a) withdraw the requirement to pay the costs;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) take such steps as the Welsh Ministers could take in relation to the failure to comply giving rise to the decision to impose the requirement;
 - (e) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to the Welsh Ministers.

32BC Costs: interest and recovery

- (1) This section applies if all or part of an amount of costs that a recognised person is required to pay under section 32BA(1) is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
 - (a) the last date on which the recognised person may make an appeal under section 32BB in respect of the costs, if no such appeal is made;
 - (b) if an appeal under section 32BB in respect of the costs is made—
 - (i) the date on which the appeal is determined, or
 - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the costs for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).

**Amendment
No.****After Clause 22—*continued***

- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the costs.
- (5) The Welsh Ministers may recover from the person, as a civil debt due to them, the unpaid amount of the costs and any unpaid interest.”
- (7) In section 54 of EA 1997 (orders and regulations)—
 - (a) in subsection (2), after “section” insert “32AB(2) or”;
 - (b) after subsection (2) insert—
 - “(2A) A statutory instrument which contains (whether alone or with other provision) an order under section 32AB(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”

Clause 24**57A** [Withdrawn]**57B** [Withdrawn]**Clause 27**

BARONESS HUGHES OF STRETFORD
 BARONESS JONES OF WHITCHURCH
 BARONESS CRAWLEY

57C Page 28, line 8, leave out “during the relevant phase of their education” and insert “from the beginning of the school year in which the majority of pupils in the pupil’s class attain the age of 14”

57CA★ Page 28, line 8, leave out “during the relevant phase of their education” and insert “that is delivered on a face to face basis by a qualified provider from the beginning of the school year in which the majority of pupils in the pupil’s class attain the age of 14”

57D Page 28, line 23, at end insert—
 “() is provided on a personal face to face basis,”

BARONESS BRINTON
 BARONESS SHARP OF GUILDFORD

58 Page 28, line 25, after “apprenticeships,” insert—
 “() is provided by a person who attends the premises, and has a relevant qualification in careers guidance who meets such quality assurance standards as the Secretary of State shall require,”

59 Page 28, line 27, at end insert “, and
 “() is given on a personal face to face basis to those pupils in need of extra assistance including those on free school meals or those with special education needs (or both)”

**Amendment
No.**

Clause 27—continued

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

- 59A** Page 28, line 27, at end insert “, and
“() is presented by a qualified provider”
- 59B** Page 28, line 27, at end insert—
“() For the purposes of this section, the government will issue guidance to schools on the relevant qualifications for providers of independent careers guidance.”
- 59C** Page 28, leave out lines 32 to 37
- 59D★** Page 28, line 32, leave out from “section” to end of line 37 and insert “a provider will be deemed qualified subject to guidance issued by the Secretary of State on the necessary qualifications for providers of independent careers guidance”

BARONESS BRINTON
BARONESS SHARP OF GUILDFORD

- 60** Page 28, line 35, leave out “14” and insert “13”
- 61** Page 28, line 37, leave out “16” and insert “19”

After Clause 29

LORD AVEBURY

- 61A** Insert the following new Clause—

“Collective worship

- (1) Section 70 of SSFA 1998 (requirements relating to collective worship) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) Subject to section 71—
 - (a) each pupil in attendance at a foundation or voluntary school of a religious character shall on each school day attend an act of collective worship;
 - (b) community, foundation or voluntary schools which are not of a religious character and Academies that are not religiously designated may hold acts of collective worship at the discretion of the governors.
 - (1A) Governors should be under an obligation to consider representations made to them by pupils and the parents of pupils as to whether or not schools or Academies hold acts of collective worship under subsection (1)(b).”
- (3) In subsection (2) for “community, foundation or voluntary school” substitute “foundation or voluntary school of a religious character”.
- (4) In subsection (3) for “required” substitute “permitted”.

**Amendment
No.****After Clause 29—*continued***

- (5) In paragraphs 1 to 4 of Schedule 20 to SSFA 1998 (collective worship) for “required” substitute “permitted”.

61B Insert the following new Clause—

“Collective worship (No. 2)

- (1) Section 71 of SSFA 1998 (which, in relation to religious education and attendance at religious worship, makes provision for exceptions and special arrangements, and for special schools) is amended as follows.
- (2) Omit subsections (1A) and (1B).
- (3) In subsection (3) omit the words “or (1A)” and “or from attendance at religious worship”.
- (4) After subsection (8) insert—
- “(8A) Attendance by pupils of acts of collective worship shall be voluntary, but this does not extend to attendance at any non-religious part of assemblies.”

61C Insert the following new Clause—

“Collective worship (No. 3)

- (1) Section 71 of SSFA 1998 (which, in relation to religious education and attendance at religious worship, makes provision for exceptions and special arrangements, and for special schools) is amended as follows.
- (2) In subsections (1A), (1B), (5), (5A) and (7) for “sixth-form pupil” substitute “competent pupil”.
- (3) In subsection (8) for the words from “section” to the end substitute “a “competent pupil” is any pupil who is over 15 years of age except one who, in the opinion of the headteacher, lacks sufficient maturity and intelligence to decide for themselves to withdraw from collective worship”.
- (4) After subsection (8) insert—
- “(9) Withdrawal from of acts of collective worship does not extend to attendance at any non-religious part of assemblies.”

LORD PUTTNAM
LORD KNIGHT OF WEYMOUTH

61D★ Insert the following new Clause—

“Technology in schools

- (1) The Secretary of State shall publish a plan detailing the delivery of the use of technology to aid teaching across all subjects in the curriculum, for pupils of all ages, in all maintained schools and Academies.
- (2) The plan must be published and laid before Parliament by July 2012.”

Amendment
No.

Clause 30

LORD HILL OF OAREFORD
LORD LAMING
BARONESS WALMSLEY
BARONESS HUGHES OF STRETFORD

62 Leave out Clause 30

Clause 31

LORD HILL OF OAREFORD
LORD LAMING
BARONESS WALMSLEY
BARONESS HUGHES OF STRETFORD

63 Leave out Clause 31

Clause 34

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

63A★ Page 33, line 24, at end insert—

- “() In section 84 (code for school admissions) in subsection (2) after “requirements” insert “which ensure fair access to opportunity for education”.
- () In section 84 (code for school admissions) in subsection (2) after “other matters” insert “which ensure fair access to opportunity for education”.

LORD HILL OF OAREFORD

64 Page 33, line 33, at end insert—

- “() In section 88I (other functions of adjudicator relating to admission arrangements), in subsection (3), omit paragraph (b) (and the “or” preceding it).”

65 Page 33, line 38, leave out sub-paragraph (i)

66 Page 34, line 1, leave out paragraph (c)

After Clause 34

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

66A★ Insert the following new Clause—

“Duty to promote fair access

- (1) EA 1996 is amended as follows.
- (2) In section 10 (General duty of the Secretary of State), at end insert “and promote fair access to opportunity for education and training”.

**Amendment
No.****Schedule 10****LORD HILL OF OAREFORD**

- 67** Page 85, leave out lines 9 and 10
- 68** Page 85, line 39, leave out paragraph 5

After Clause 35**LORD HILL OF OAREFORD**

- 69** Insert the following new Clause—

“Objections to admission arrangements

- (1) Section 88H of SSFA 1998 (reference of objections to adjudicator) is amended as set out in subsections (2) to (6).
- (2) In subsection (2)—
 - (a) in paragraph (a), for “an appropriate person” substitute “a body or person”;
 - (b) after “that” insert “body or”.
- (3) Omit subsection (3).
- (4) In subsection (4) omit “or (3)”.
- (5) In subsection (5)—
 - (a) in paragraph (a)(i) omit “or (3)”;
 - (b) in paragraph (a)(ii) for “(3)” substitute “(2)”;
 - (c) in paragraph (c) omit “or (3)”;
 - (d) in paragraph (d) omit “or (3)”.
- (6) Omit subsection (6).
- (7) In section 88K of SSFA 1998 (sections 88H to 88J: supplementary), for subsection (2)(b) substitute—

“(b) any other person or body.””

BARONESS WALMSLEY
BARONESS BRINTON

- 70** Insert the following new Clause—

“Access to education and training

- (1) The Education Act 1996 is amended as follows.
- (2) In section 10 (general duty of Secretary of State) at the end insert—

“() The Secretary of State in England shall ensure fair access to education and training provision as far as is reasonably practicable.””

**Amendment
No.**

Clause 36

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

70A★ Page 34, leave out line 20 and insert—

- “(1) Where a new school is to be established there should be local determination as to the appropriate category of new school, based on a local assessment of need and local consultation, including with parents and the local authority.
- (2) The category of the new school shall not be presumed prior to the assessment of need and consultation with parents in subsection (1).
- (3) The Secretary of State shall not provide a funding incentive which supports one category of school over another.”

After Clause 36

LORD AVEBURY

70B★ Insert the following new Clause—

“Closing schools

Guidance on closing schools

Guidance on closing schools shall not contain any presumption that the proportion of denominational places in the area shall be reduced or increased.”

Schedule 11

BARONESS WALMSLEY
BARONESS BRINTON

70C★ Page 86, leave out lines 11 to 39

BARONESS MASSEY OF DARWEN

71 Page 87, leave out line 11

72 Page 87, leave out lines 35 to 38

73 Page 87, leave out lines 42 and 43

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

The above-named Lords give notice of their intention to oppose the Question that Schedule 11 be the Eleventh Schedule to the Bill.

**Amendment
No.**

Clause 39

LORD HILL OF OAREFORD

- 74 Page 35, line 22, leave out “follows” and insert “set out in subsections (2) to (8)”
- 75 Page 36, line 31, at end insert—
- “(9) In section 121 of EA 2005 (parliamentary control of subordinate legislation)—
- (a) in subsection (2)(a), after “subsection” insert “(2A) or”;
- (b) after subsection (2) insert—
- “(2A) This subsection applies to regulations under section 5(4A) (power to prescribe schools exempt from inspection), apart from the first regulations to be made under that subsection.
- (2B) A statutory instrument which contains (whether alone or with other provisions) regulations to which subsection (2A) applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.””

LORD HUNT OF KINGS HEATH

- 76 Leave out Clause 39

Clause 40

LORD NORTHBOURNE

- 76A★ Page 36, line 39, at end insert—
- “() in the case of any school taking in children at compulsory school age, the extent to which such pupils are emotionally, socially and cognitively “school ready” when they join the school;”

BARONESS WALMSLEY
BARONESS BRINTON

- 77 Page 36, line 40, after “achievement” insert “and well-being”

BARONESS FLATHER

- 78 Page 36, line 43, at end insert—
- “() the contribution made by the school to community cohesion.”

LORD QUIRK
BARONESS COUSSINS
BARONESS HOOPER

- 79 Page 37, line 1, after “social” insert “, linguistic”

**Amendment
No.**

Clause 40—continued

BARONESS MASSEY OF DARWEN
BARONESS GOULD OF POTTERNEWTON
LORD LAYARD

80 Page 37, line 8, at end insert—

“(5C) In reporting under subsection (5), the Chief Inspector’s report must consider the wellbeing of the children in the school and, in particular, must report on—

- (a) school policies on bullying and healthy eating;
- (b) the delivery of citizenship education;
- (c) the delivery of personal, social and health education, including sex and relationships education; and
- (d) child protection measures.

(5D) In reporting on the matters listed in subsection (5C), the Chief Inspector must take into account the age and stage of development of the pupils.

(5E) The Chief Inspector’s report must also consider—

- (a) how the delivery of the matters listed in subsection (5C) is coordinated across the school curriculum and in pastoral care; and
- (b) how many parents, pupils and members of the wider community are involved in the delivery of the matters listed in subsection (5C).”

Clause 41

LORD HILL OF OAREFORD

81 Page 37, line 13, leave out “follows” and insert “set out in subsections (2) to (10)”

82 Page 38, line 4, at end insert—

“(11) In section 182 of EIA 2006 (parliamentary control of orders and regulations)—

- (a) in subsection (2), after paragraph (a) insert—
“(aa) regulations to which subsection (2A) applies,”;
- (b) after subsection (2) insert—

“(2A) This subsection applies to regulations made under section 125(1A) (power to prescribe institutions exempt from inspection), apart from the first regulations to be made under that subsection.”;

- (c) in subsection (3), after paragraph (a) insert—
“(aa) regulations to which subsection (2A) applies,”.

**Amendment
No.**

Clause 43

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

82A★ Page 39, line 12, leave out subsection (2) and insert—

- “(1) The Secretary of State shall not have the right to direct closure of a maintained school unless that school is eligible for intervention by virtue of section 62 of EIA 2006 (school requiring special measures).”

Schedule 12

BARONESS BRINTON
BARONESS SHARP OF GUILDFORD

83 Page 91, line 17, leave out paragraph 3

84 Page 91, line 41, leave out paragraph 11

After Clause 52

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

84A★ Insert the following new Clause—

“Academies: school teachers’ qualifications

- (1) EA 2002 is amended as follows.
- (2) In section 133 (requirement to be qualified), in subsection (6) (schools to which this section applies), after paragraph (b) insert—
 - “(c) an Academy, including a free school,
 - (d) a city technology college, or
 - (e) a city college for the technology of the arts.”
- (3) At the end of subsection (6) of that Act insert—
 - “(7) Nothing in subsection (6) should prohibit a school’s ability to employ non-qualified individuals to provide educational support in relation to non-‘specified work’ in so far as it would positively contribute to pupils’ educational development”.
- (4) Any individual employed under the terms of subparagraph (3) above shall be supervised in their work by a qualified teacher.”

Clause 55

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

84B★ Page 45, line 40, leave out from “England” to end of line and insert “applies for an Academy Order, there must be a consultation on the question of whether the conversion should take place.

Amendment
No.

Clause 55—continued

- (2) The consultation must seek the views of such persons as the person carrying it out thinks appropriate, but must include the views of parents of registered pupils, registered pupils, school staff and the local authority.”

After Clause 56

LORD HILL OF OAREFORD

84C Insert the following new Clause—

“Academy orders: local authority powers

In section 6 of AA 2010 (effect of Academy order), after subsection (2) insert—

- “(2A) Subsection (2) does not prohibit the local authority from providing financial or other assistance in respect of the Academy, including by—
- (a) making payments in respect of some (but not all) of the expenses of maintaining the Academy,
 - (b) providing premises, goods or services for the Academy, or
 - (c) making premises, goods or services available to be used for the purposes of the Academy.”

Clause 60

BARONESS TURNER OF CAMDEN

85 Page 49, line 1, at end insert—

- “() In section 59(1) of SSFA 1998 (religious opinions etc. of staff), after paragraph (b) insert—
- “(c) an Academy that is not religiously designated”.

86 Page 49, line 1, at end insert—

- “() Section 60 of SSFA 1998 (staff at foundation or voluntary school with religious character) is amended as follows.
- () For subsection (5) substitute—
- “(5) If the school is a voluntary aided school, preference may be given, in connection with the appointment, remuneration or promotion of teachers at the school, to persons whose religious opinions are in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4) but only to the extent that the treatment in question can be justified on the basis that the religion or belief of a teacher in the school constitutes a genuine, legitimate and justified occupational requirement having regard to the school’s religious ethos.

Amendment
No.Clause 60—*continued*

(5A) Regard may be had, in connection with the termination of the employment or engagement of any teacher at the school, to any conduct on his or her part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified; provided that nothing in this section shall be taken to permit discrimination which would be prohibited by the Equality Act 2010 other than in relation to religion or belief.”

() Omit subsection (2)(b) and (c) of section 124A of SSFA 1998 (appointment and dismissal of teachers of religious education).”

87 Page 49, line 18, at end insert “, but he or she shall not make such an order unless there has been consultation with such persons as he or she considers appropriate on the question of whether an order should be made and having regard to the responses given in that consultation”

After Clause 60

BARONESS MASSEY OF DARWEN

88 Insert the following new Clause—

“Discrimination on grounds of religion or belief

After section 1(9) of AA 2010 (Academy arrangements) insert—

“(9A) Subsection (9B) applies if the school is a voluntary controlled school which is designated by order under section 69(3) of SSFA 1998 as a school having a particular religious character.

(9B) The Academy agreement must include terms imposed for the purpose of securing that no greater percentage of pupils are selected on the basis of religion or belief after, as compared with before, the conversion date, unless the Secretary of State has by order provided that section 124AA of AA 2010 does not apply to the school.””

Clause 62

LORD HILL OF OAREFORD

89 Page 51, leave out lines 6 to 16

Clause 78

LORD HILL OF OAREFORD

89A Page 58, line 16, at end insert—

“() section (*Academy orders: local authority powers*);”

LORD HILL OF OAREFORD

LORD LAMING

BARONESS WALMSLEY

90 Page 58, line 23, leave out paragraph (c)

Education Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

20th October 2011

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON – THE STATIONERY OFFICE LIMITED

HL Bill 98—II

(15712)

55/1



ISBN 978-0-10-848617-3

